

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:)	
)	
Hiroya KOBAYASHI, et al.)	Confirmation No.: 9269
)	
Application No.: 10/573,467)	Group Art Unit: 2822
)	
Filed: April 13, 2007)	Examiner: Paul E. Patton
)	
For: SEMICONDUCTOR DEVICE AND)	
METHOD FOR MANUFACTURING)	
THE SAME)	

Commissioner for Patents
U.S. Patent and Trademark Office
Customer Window, Mail Stop AF
Alexandria, VA 22314

Sir:

INFORMATION DISCLOSURE STATEMENT UNDER 37 C.F.R. § 1.97(d)

Pursuant to 37 C.F.R. §§ 1.56 and 1.97(d), Applicants bring to the attention of the Examiner the documents listed on the attached PTO Form 1449. This Information Disclosure Statement ("IDS") is being filed after the events recited in § 1.97(c) but before the payment of the issue fee for the above-identified application. Under the provisions of 37 C.F.R. § 1.97(d), a fee of \$180.00, as specified by § 1.17(p) is attached hereto.

No item of information contained in this IDS was cited in a communication from a foreign patent office in a counterpart foreign application, and, to the best of the undersigned's knowledge and recollection, no item of information contained in this IDS was known to any individual designated in 37 C.F.R. § 1.56(c) more than three months prior to the filing of this IDS.

A U.S. Office Action dated November 26, 2008 that issued in a related U.S. patent application no. 10/573,469 and having documents cited therein is attached for the Examiner's consideration.

While the U.S. Office Action dated November 17, 2008 additionally cites to U.S. Patent Application Laid-Open No. US2007/0272998, this document is not listed on the attached PTO Form 1449 because it is not believed to be material to the patentability of the instant application. More particularly, U.S. Patent Application Laid-Open No. US2007/0272998 is the publication of the related application no. 10/573,468 ("the '468 application"). A double patenting rejection was applied in the '468 application in an Office Action dated November 17, 2008. That double patenting rejection applied claims of the instant '467 application in the rejection. This November 17, 2008 Office Action in the '468 application has already been cited in the instant '467 application in the IDS that was filed on February 2, 2009. Also, the '468 application (which was published as U.S. Patent Application Laid-Open No. US2007/0272998) lists the same two inventors and has the same priority dates as the instant '467 application. As a result, the only possible issue that we are aware of with regard to the materiality of U.S. Patent Application Laid-Open No. US2007/0272998 to the instant '467 application would be the double patenting issue. However, as noted previously, the Office Action including the double patenting rejection in the '468 application has already been submitted in the instant '467 application in an IDS filed on February 2, 2009. For at least the foregoing reasons, the U.S. Patent Application Laid-Open No. US2007/0272998 document cited in the attached Office Action dated November 26, 2008 in the '469 application is not listed on the attached PTO Form 1449.

Applicants respectfully request that the Examiner consider the listed documents and evidence that consideration by making appropriate notations on the attached PTO Form 1449.

This submission does not represent that a search has been made or that no better art exists and does not constitute an admission that any of the listed documents are material or constitute "Prior Art". If it should be determined that any of the listed documents do not constitute "Prior Art" under the United States law, Applicant reserves the right to present to the Office the relevant facts and law regarding the appropriate status of such documents.

Applicants further reserve the right to take appropriate action to establish the patentability of the disclosed invention over any of the listed documents, should any of the documents be applied against the claims of the present application.

EXCEPT for issue fees payable under 37 C.F.R. § 1.18, the Commissioner is hereby authorized by this paper to charge any additional fees during the entire pendency of this application including fees due under 37 C.F.R. § 1.16 and 1.17 which may be required, including any required extension of time fees, or credit any overpayment to Deposit Account No. 50-0573. This paragraph is intended to be a **CONSTRUCTIVE PETITION FOR EXTENSION OF TIME** in accordance with 37 C.F.R. § 1.13(a) (3).

Respectfully submitted,

DRINKER, BIDDLE & REATH LLP



Paul A. Fournier
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By:

Dated: February 25, 2009

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